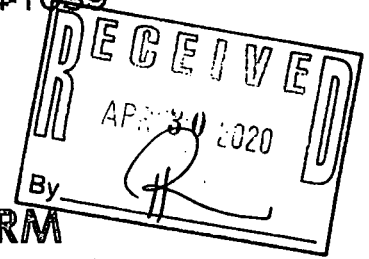


ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS ST., SUITE 4600, PHOENIX, ARIZONA 85007

PHONE (602) 364-1PET (1738) FAX (602) 364-1039

VETBOARD.AZ.GOV



COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: April 30, 2020 Case Number: 20-101

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT Dr. Seth Bleakley, Dr. Kirk Prince

Premise Name: Foothills Animal Hospital

Premise Address: 11769 S. Frontage Road

City: Yuma State: AZ Zip Code: 85364

Telephone: (928) 342-0448

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: Laura Rosario

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Home Telephone: [REDACTED] Cell Telephone: [REDACTED]

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

C. PATIENT INFORMATION (1):

Name: Benny
Breed/Species: French Bulldog
Age: 3 Sex: Male Color: Tan & White

PATIENT INFORMATION (2):

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.

Dr. Kirk Prince, Foothills Animal Hospital

Dr. Seth Bleakley, Foothills Animal Hospital

Dr. Sergio Garcia, 928-482-7103, Felix Contreras Avenue, San Luis, Rio Colorado

E. WITNESS INFORMATION:

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.

Sergio Leon, ~~REDACTED~~ - Same address

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: Laura Rosario

Date: 4/30/20

On Thursday, February 27, 2020, at approximately 8:30am, my 3-year-old French Bulldog, Benny, was taken to Foothills Animal Hospital as an emergency patient. Benny was paralyzed in his rear legs, incontinent, had extreme stiffness and pain in his head, neck and front legs and his anus was protruding from his back side. This was quite devastating and scary for us. These signs began 48 hours prior to the appointment (Tuesday night) with a limp in the rear legs and within 24 hours (Wednesday night) he was paralyzed. By early morning he was only able to sit upright, unable to move AT ALL! Benny's pain was so severe, it was difficult just getting him to the vet. Dr. Brian Krisko was the doctor who examined Benny. He said it looked like Benny had Intervertebral Disc Disease (IVDD) but they would need to do a CT scan to confirm. I agreed and left Benny at the vet.

At approximately 2:12pm, Dr. Seth Bleakley, the surgeon at Foothills Animal Hospital called to say the CT scan confirmed that Benny had IVDD with compression on his spine located at disc L4 and L5. He said Benny would require surgery to relieve the pressure and he would be able to do it ASAP. Based on the diagnosis and results, I agreed for Dr. Bleakley to go forward with surgery.

At 4:47pm, the clinic called to let me know the surgery went well, they relieved the pressure in Benny's spine, and he was resting. Benny stayed at the vet through the weekend.

Monday morning (3/2), Dr. Bleakley called to say that Benny no longer had deep pain sensation. He said he wasn't sure what happened and recommended we pick up Benny and have him recover at home. We picked him up approximately 4:30pm. Benny was very weak and could not hold himself up, not even with his front legs. Dr. Bleakley mentioned, for the first time, taking Benny elsewhere for an MRI if he did not improve, since they did not have MRI capabilities. This will be an important fact as I explain what occurs next. Prior to leaving the vet I asked about medication as we were only given Gabapentin but Dr. Bleakley said that was all he needed along with antacid.

Throughout the night into the next day, Benny was experiencing severe muscle spasms and crying in pain. He was not eating, sleeping nor drinking. He could not lift his head. He just laid on his side and I moved him every hour or so to switch sides. I knew Benny was not only in pain but he was dying. Another Frenchie owner recommended Dr. Sergio Garcia who performed spinal surgery on her dog and had MRI capabilities. We brought Benny to him on Tuesday afternoon. I requested Benny's CT scan that was done by Foothills Animal Hospital. Within the hour we had the CT scan but no report to go with it. The CT scan itself did not show compression on Benny's spine. We called Foothills clinic again to request the report and finally received it almost 2 days later.

The results were both shocking and devastating. The report clearly states that there was NO COMPRESSION on Benny's spine. These results are contradictory to the results Dr. Bleakley said and documented which was IVDD and spinal compression. The final recommendation was an MRI to further diagnose. The MRI that they mentioned AFTER surgery that they did not have. The report date was also AFTER surgery which means Dr. Bleakley never sent it to be read by a radiologist prior to surgery. Benny's clinical presentation AND diagnostic exams were consistent with Progressive Myelomalacia. Although extremely difficult, we did what was humane, and what should have been done on 2/27 instead of surgery and euthanized him. Dr. Bleakley had absolutely NO evidence-based diagnostic exams to justify Benny was a surgical candidate. The fact that they mentioned the MRI AFTERWARDS is disturbing since that should have been the next step, not a surgery that put my dog through extended pain and suffering and my family in debt.

When we presented our concern to the Foothills Animal Hospital, they said they performed surgery based on Benny's clinical signs which showed a spinal injury. While it was obvious, he had a spinal injury, I find this statement disturbing as these doctors know not all spinal cord injuries are operable; especially with how quickly Benny was declining. The clinical signs mentioned above the morning of 2/27 which occurred within 48 hours were also clinical signs of Progressive Myelomalacia. We are 99.9% sure that upon entering Foothills Animal Hospital on 2/27, Benny had Progressive Myelomalacia. Benny required the MRI that was recommended by the radiologist and possibly even further testing to confirm diagnosis and present an appropriate treatment plan. We DO KNOW 100% that Benny DID NOT have operable IVDD with compression on his spine at L4, L5 as originally diagnosed by Dr. Bleakley. The CT report also made it clear that the area of L4, L5 that Dr. Bleakley "claimed" had compression was where they injected him with the spinal epidural, so of course there was contrast on the CT.

They sent Benny home to die. It was devastating and traumatizing... his shaking, crying, unable to lift his body or head. He also began having seizures which he did not have a history of before surgery. He was a neurological mess. They charged me for a CT scan and radiology results that they never sent or received and a surgery that should have never happen. I understand in emergency situations some veterinarians are comfortable reading scans, however, I feel you need to be 150% correct in what you see on that scan and diagnose correctly since you are NOT a board-certified radiologist. Dr. Bleakley's exact words were "radiologists are wrong" in trying to justify why they never sent the CT to be read. THEY were wrong and did surgery based on this.

Foothills Animal Hospital put my dog and our family through extended pain and suffering. I am respectfully requesting an investigation into this case and I am seeking justice for Benny and my family. The Foothills Animal Hospital should return 100% of our money at this point, given the facts presented and what they have put us through. I tried to settle this matter with them prior to filing this case. They offered a "compassionate gesture" of \$4,000 taking NO responsibility and in accepting this offer we needed to sign a gag order so we cannot tell anyone what they did to us. We paid Foothills Animal Hospital \$7,629.47, then another clinic over \$2,000 for additional scans and actual diagnostic results. I did not feel this was a fair compensation given the obvious facts. They performed surgery on our dog based on assumption, not facts or evidence-based diagnostic exams.

We put our trust in Foothills Animal Hospital. I did not authorize surgery based on what they "THOUGHT" might be wrong with Benny. My dog deserved better than to be cut open based on an assumption. When they said it looked like IVDD I researched that diagnosis for HOURS preparing for CT results and whatever decision I would have to make. When Dr. Bleakley confirmed IVDD with compression based on the CT scan, it was an obvious decision to go forward with surgery. However, all that changed when the ACTUAL results came to light. What exactly did they do surgery on? They drilled into his spine for what? There was no compression and at that point had no evidence of anything else operable. According to Dr. Bleakley they found disk material and blood clots. Which meant what? This could mean a whole array of diseases and infections. Was this going to save Benny? Turns out, no it was not going to help him or save his life. Dr. Kirk Prince admitted himself, they would have taken a different route if they had known now what they knew then. As far as I am concerned, they did not even try to find out what was wrong with Benny.

I declined their "compassionate gesture" in hopes to get justice for not only my dog, but for future patients. How can surgery be performed without diagnostic reports and where is the repercussion when it is done unnecessarily. There needs to be more care in handling our pets and not to be so quick to take money for unnecessary procedures, as Foothills Animal Hospital did to us. Even though the law identifies them as property, they are NOT just property to us and it is disgusting when a veterinarian preys on people knowing they will do whatever it takes to help their dog. I was not given the opportunity to make the best decision for Benny with them misdiagnosing him. With all the research I have done and in speaking to different neurologist and specialist, they should have NEVER performed surgery on Benny based on just clinical signs without a radiology report, never mind a radiology report such as Benny's that indicated NOTHING.

I have attached all documents that I feel are relevant to this case and will be more than happy to provide anything else you need. I appreciate your time and the boards time in this matter and look forward to hearing from someone soon.

Thank you

Laura Rosario



foothills
ANIMAL HOSPITAL

Dr. Kirk Prince
Dr. Brandon Prince
& Associates

Seth Bleakley
2542 E Melrose Street
Mesa, AZ 85213
240-308-0159
drbleakley@caresurgerycenter.com
5/21/2020

Arizona State Veterinary Medical Examining Board
1740 W Adams Street Ste 4600
Phoenix, AZ 85007

RE: Complaint Investigation 20-101. Dated 4/30/2020. Received 5/11/2020.

Dear Arizona State Veterinary Medical Examining Board:

The following is my narrative with regards to the above case concerning Benny, a 3-year-old male castrated French Bulldog owned by Laura Rosario, referred to me for acute onset paraplegia.

- I am a board-certified surgeon with experience in spinal surgery – 4 years at Colorado State University where all emergency spinal surgery was handled by surgery residents with CT imaging, and 4 years as an attending surgeon at Sacramento Veterinary Referral Center (where our neurologists are reluctant to be on call).
- My position at Foothills Animal Hospital in Yuma has been part time with the goal of providing surgical services to an underserved area. There are no other specialists in Yuma and patients requiring specialized care have historically faced travel to Phoenix/San Diego or euthanasia.
- Benny was presented to Dr. Brian Krisko, an ER Doctor at Foothills Animal Hospital on Thursday 2/27/2020. Neurological status was non-ambulatory paraplegic with nociception. The client was presented with the option of referral to a neurologist with MRI capability or advanced imaging (CT as there is no veterinary MRI scanner in Yuma) at Foothills Animal Hospital, with possible decompressive surgery if indicated. Ms. Rosario declined referral and requested imaging and surgery at Foothills Animal Hospital. An estimate for CT and surgery was authorized.
- Benny was referred to me for CT which was performed routinely under anesthesia on 2/27/2020. Mineralized disc material was suspected at L4-L5 but compression was difficult to visualize on plain CT. The decision was made to perform a CT myelogram; standard of care for increasing sensitivity. Obvious compression was not apparent, nevertheless, with signs of intervertebral disc disease a lesion was suspected at L4-L5 on the right side.
- CT findings were discussed with Ms. Rosario with signs of intervertebral disc disease suspected in the region of L4-L5 while Benny was under anesthesia. Referral to a neurologist versus decompressive surgery with myself, a general surgeon with experience in

6

spinal surgery, was discussed (as documented and time stamped in the medical record). The owner requested immediate surgery given Benny's rapid decline.

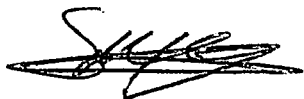
- Benny was taken to surgery without delay. Waiting for a radiologist report was not considered in the best interest of the patient for the following reasons:
 - Benny was under anesthesia.
 - Report time for even a stat read from our radiology service is variable, known to take hours.
 - Benny's rapid neurological decline suggested that rapid decompression was in his best interest before he lost deep pain.
- Due to a miscommunication with a colleague, Benny's CT was not immediately submitted to a radiologist for review. I went into surgery thinking my colleague with whom I reviewed the CT, Dr. Kirk Prince, was submitting it, while he thought that I had already submitted it. Given our own review of the images and surgical findings, we were not eagerly awaiting a report. As soon as a missing report was realized, the CT was submitted for review for completeness of the medical record and to fulfill billed service, several days later (3/3/2020). In retrospect, the review results in no way would have changed the manner in which we handled this case.
- Routine right L4-L5 hemilaminectomy was performed. A hematoma was drained indicative of spinal cord trauma. A large volume of degenerative disc material was removed, but was ventral and minimally compressive which explained the non-compressive CT findings. Surgical findings were suggestive of a Type III or high velocity low volume disc with resultant concussive trauma to the spinal cord.
- Benny seemed to recover uneventfully from surgery and was monitored in the hospital through the weekend. SOAPs from colleagues reported the presence of deep pain and expected recovery. However, when I returned to the hospital and reassessed him on Monday 3/2/2020, I was unable to elicit a pain response in his hindlimbs.
- My concerns were immediately discussed with Ms. Rosario with loss of deep pain being a negative prognostic indicator. We discussed the possibility of myelomalacia. We discussed referral for MRI to investigate. Ms. Rosario declined referral for MRI for financial reasons, declined further hospitalization at Foothills Animal Hospital, and opted to take Benny home.
- I met with Ms. Rosario and her partner at discharge on 3/2/2020 to discuss again his condition, bladder expression and provide information regarding purchase of a cart if necessary.
- Benny reportedly declined at home. The client opted to seek a second opinion with Dr. Sergio Moreno MVZ, Cert GP at Centro Médico Veterinario, San Luis, Mexico to save cost.
- Ms. Rosario later informed us that Benny, had declined, been euthanized and diagnosed with myelomalacia based off of MRI, CT and necropsy (records not available for review).
- Ms. Rosario and her partner set up a meeting with myself and Dr. Kirk Prince on 3/24/20 to inform us of Benny's outcome and seek financial compensation. They were under the impression from their research that Benny did not have intervertebral disc disease but had myelomalacia, and that another "specialist" (Dr. Moreno) had told them that in his opinion Benny should never have had surgery and should have been euthanized on presentation.

5/21/2020

Page 3

- We clarified that we did what was best for Benny with the information that we had at the time. Decompressive surgery is standard of care for intervertebral disc disease. Sometimes discerning a Type II disc from a Type III is difficult preoperatively no matter what the imaging modality.
- We clarified that the conversation about an MRI scan did take place, that it shows better soft tissue detail but there is not an MRI scanner in Yuma so we localized the lesion with a CT myelogram.
- We clarified that Benny did have IVDD but what we suspected to be a high velocity low volume disc, which was also a differential reported by the radiologist.
- We clarified that myelomalacia is a delayed secondary condition caused by spinal injury, is not visible on CT and is diagnosed based off declining neurological status, MRI and surgical exploration.
- We clarified that while we cared for Benny and did all we could for him with the information we had at the time, a positive outcome was not requisite for financial responsibility given his severe condition and the clients consent to our treatment plan. However, as a good will gesture we would consider a partial refund to make the situation with Benny's passing easier for their family.
- The clients proceeded to demand not only refund of expenses incurred at our practice, but expenses incurred since leaving our practice and pursuing MRI, CT and necropsy in Mexico.
- After meeting as a practice, the decision was made to offer partial refund (\$4000), not because of a breach of standard of care, but as a good will gesture to the family. Such would provide them closure without legal proceedings.
- Our gesture of \$4000 was refused and the clients demanded \$6600.
- The client responded to our final offer of \$4500 by filing this complaint with the board as they considered the dollar amount of our offer inadequate.

Sincerely,



Seth Bleakley MVB, MS, MRCVS, CCRT
Diplomate American College of Veterinary Surgeons – Small Animal
Dipolmate European College of Veterinary Surgeons



ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS STREET, STE. 4600, PHOENIX, ARIZONA 85007

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INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: PM Investigative Committee: Adam Almaraz - Chair
Amrit Rai, DVM
Cameron Dow, DVM
William Hamilton
Brian Sidaway, DVM

STAFF PRESENT: Tracy A. Riendeau, CVT – Investigations
Marc Harris – Assistant Attorney General

RE: Case: 20-101
Complainant(s): Laura Rosario
Respondent(s): Seth Bleakley, DVM (License: 8035)

SUMMARY:

Complaint Received at Board Office: 4/30/20
Committee Discussion: 9/1/20
Board IIR:

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018
(Lime Green); Rules as Revised
September 2013 (Yellow)

On February 27, 2020, "Benny," a 3-year-old male French Bulldog was presented to Respondent's premises for paralysis in his hind limbs, incontinence and pain. After exam, the dog was referred to Dr. Bleakley for a CT scan and possible surgery. Dr. Bleakley suspected a lesion at L4 – L5 on the right side and recommended referral to a neurologist or decompressive surgery with him. Complainant elected to have Dr. Bleakley perform the surgery. Surgery was performed and the dog recovered.

On March 2, 2020, the dog had loss of deep pain, possible myelomalacia was discussed, and Dr. Bleakley recommended referral for an MRI for further investigation. Complainant declined and elected to take the dog home.

The next day, Complainant sought a second opinion and the dog was diagnosed with myelomalacia. The dog was humanely euthanized.

Complainant was noticed and appeared telephonically.

Respondent was noticed and appeared telephonically. Attorney David Stoll appeared.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: *Laura Rosario*
- Respondent(s) narrative/medical record: *Seth Bleakley, DVM*
- Consulting Veterinarian(s) narrative/medical records: *Sergio Garcia, MVZ*

PROPOSED 'FINDINGS of FACT':

1. On February 27, 2020 (Thursday), the dog was presented to Foothills Animal Hospital on emergency due to paralysis in his hind legs, incontinence and pain. On Tuesday evening, the dog vocalized and ran into the pet owners' room. Complainant thought the dog had injured his leg again. Within 24 hours, the dog was paralyzed, and when presented the dog could sit upright but could not move at all.

2. The dog had a weight = 9 (pounds? Kgs?), and a body score 6/9. Dr. Krisko noted there was pain on palpation of the lumbar spine, neck and forelimbs were rigid and difficult to manipulate. Paraparesis to the hind limbs, CP deficits, and superficial pain and deep pain were present. According to Dr. Bleakley, Complainant was presented options for a referral to a neurologist with MRI capability or advanced imaging (CT) at Foothills Animal Hospital, with possible decompressive surgery if indicated. Complainant declined referral and elected to pursue imaging and surgery at Foothills Animal Hospital – an estimate was presented and approved by Complainant.

3. Dr. Krisko performed blood work and determined the dog was a surgical candidate.

4. Unclear if Dr. Bleakley evaluated the dog prior to performing the CT, myelogram or surgery; no exam was noted (dog fractious?). The dog was pre-medicated with dexdomitor and butorphanol IV, an IV catheter was placed (fluids?), and the dog was induced with alfaxan IV; the dog was intubated and maintained on isoflurane and oxygen. A CT scan was performed without contrast and then performed with contrast. Both scans were reviewed – mineralized disc material was suspected in the spinal canal at the L4 – 5 region, compression was difficult to localize. The dog was transferred to Dr. Bleakley for a myelogram and surgery.

5. The dog was clipped and prepped and the myelogram was performed. The CT myelogram revealed evidence of IVDD with compression most apparent of the region of L4 – L5. According to Dr. Bleakley, he discussed his findings with Complainant while the dog was under anesthesia – IVDD in the region of L4 – L5. He stated that he offered referral to a neurologist versus decompressive surgery by him. Complainant elected to pursue surgery by Dr. Bleakley.

6. Dr. Bleakley did not think it was in the best interest of the dog to wait for the radiologist review and report of the CT scan due to the dog being under anesthesia, it was unknown when the report would be received (even for a stat read), and the dog's rapid decline suggested quick decompression was in the dog's best interest. The images were mistakenly not submitted for radiologist review until several days later (3/3/20).

7. Dr. Bleakley performed a routine right L4 – L5 hemilaminectomy. A hematoma was drained indicative of spinal cord trauma. A large volume of degenerative disc material was removed

but was ventral and minimally compressive which explained the non-compressive CT findings (by radiologist?). Surgical findings were suggestive of a Type III or high velocity low volume disc with resultant concussive trauma of the spinal cord.

8. The dog recovered uneventfully and was hospitalized through the weekend for treatment and monitoring.

9. On March 2, 2020 (Monday), Dr. Bleakley reassessed the dog and noted there was no deep pain identified; paraplegia. He discussed his findings with Complainant that he was not appreciating deep pain sensation, although it was reportedly present over the weekend. Dr. Bleakley explained that the dog may not walk again and may need a cart. They discussed the possibility of myelomalacia and referral to a neurologist for an MRI to further investigate.

10. Dr. Bleakley and Complainant discussed options – further hospitalization and monitoring at home; it could take weeks to see improvement. According to medical records, it was discussed trying the dog at home, bladder expression, and physical therapy. Dr. Bleakley stated that Complainant declined referral for financial reasons and declined further hospitalization. Complainant stated in her complaint that Dr. Bleakley recommended taking the dog home – upon arrival to pick up the dog, Dr. Bleakley mentioned, for the first time, taking the dog elsewhere for an MRI if the dog did not improve, since they do not have MRI capabilities.

11. While at home, the dog continued to decline and do poorly – severe muscle spasms, crying in pain, and not eating or drinking. The dog could not lift his head and remained on his side; Complainant rolled him over every hour or so.

12. On March 3, 2020 (Tuesday), Complainant elected to get a second opinion from a veterinarian in Mexico that had an MRI. She requested the CT scan and received the images within the hour, however, she did not get a copy of the radiologist report. Dr. Bleakley realized at this point that there was a miscommunication between he and Dr. Prince; each thought the other was going to submit the CT scan to a radiologist, which Complainant had paid for. The CT scan was submitted to the radiologist. Dr. Bleakley stated that, in retrospect, the results would not have changed the manner in which the case was handled.

13. The CT scan was read by a radiologist and reported back to Foothills Animal Hospital, normal status, within 1.5 hours.

14. Complainant stated that she received the radiologist report two days after requesting it. She was concerned that the report concluded that there was no lesion causing spinal cord compression and an MRI should be considered for a more complete evaluation and determine any surgical lesion. She was further concerned that the report was dated after the dog's surgery thus indicating that Dr. Bleakley did not have the CT scan read by a radiologist prior to the dog's surgery.

15. On March 4, 2020, a CT scan was repeated by the veterinarian in Mexico and concluded that there was a right sided hemilaminectomy at L4 – 5 with extension of the surgical window along the body of L5. There is a small amount of disc protrusion ventrally at the L4 -5 space. Suspected area of spinal cord inflammation at T10 – 11 that could be from myelitis, spinal cord

bruising or early myelomalacia. Small vascular or infiltrative lesions are not ruled out.

16. On March 7, 2020 (?) an MRI was performed and concluded that there was a right sided hemilaminectomy at L4 – 5 with severe inflammation, necrosis or myelomalacia from L3 – L5. The soft tissue inflammation and myelitis could explain the fever. IVDD without obvious extrusion from T10 to L3.

17. Complainant reported the dog was humanely euthanized after receiving a second opinion; date unknown.

18. Client communications were not in the medical records Complainant submitted, only in records submitted by Foothills Animal Hospital.

19. Complainant and Foothills Animal Hospital attempted to resolve the matter financially. Complainant declined their offer.

COMMITTEE DISCUSSION:

The Committee discussed that it is always a good idea for the surgeon to examine the patient himself; however it is not always possible due to getting the patient into surgery as soon as possible. The spinal reflexes were not in the medical records, but the Committee discussed that with Respondent who ensured that spinal reflexes were performed. The nice thing about advanced diagnostics is they are better than an exam at times.

The Committee discussed that the dog had this complication. Most times, myelomalacia cannot be diagnosed on exam, typically there needs to be a history of the myelomalacia progressing. It is called ascending and descending myelomalacia, which means there needs to be a progression of neurological signs down the spinal cord to have any kind of hint of that. The dog did not have myelomalacia on the initial exam, it happened post-operatively, and there is no way to predict it.

The Committee discussed the radiology report that suggested there was no compression. Respondent stated he found disc at the location, despite what the CT and MRI say. At times, there can be disc present and be very minimal compression because of where it was located. There is a discrepancy between Respondent's account and the report, however, the Committee believed what Respondent found in surgery. The Committee admitted that the CT was tough to read but stated it was appropriate to move forward with surgery without having the radiologist report; time was of the essence. The dog's condition was progressing and once deep pain sensation is lost in the dog's feet, the prognosis drops precipitately.

The Committee did question whether the conversation occurred with Complainant with respect to referral to a neurologist and the MRI before surgery. The Committee was comfortable with only a CT being performed and was within the standard of care.

Some Committee members felt there should have better informed consent in this case.

The Committee discussed the difference the Type II and Type III disc herniation – compression vs

concussive effects.

The Committee was satisfied with the pain medication sent home with the dog.

The Committee discussed that possibly Complainant thought that the attempt at settlement was an admission of guilt that something went wrong.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that no violations of the *Veterinary Practice Act* occurred.

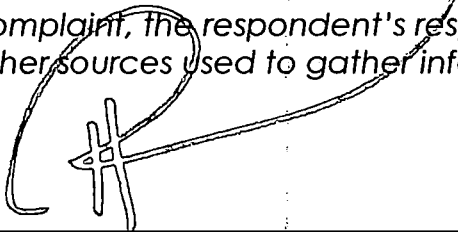
COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board:

Dismiss this issue with no violation.

Vote: The motion was approved with a vote of 3 to 1, with Dr. Rai opposed.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.

A handwritten signature in black ink, appearing to be 'TRACY A. RIENDEAU', written over a horizontal line.

Tracy A. Riendeau, CVT
Investigative Division